

Lumberman's Investment Corp. Non-Annexation Agreement

Agenda Item #5

Public Hearing

January 6, 2005

Christopher J. Brady
Assistant City Manager

Background

- City Council approved a Non-Annexation Agreement with Lumberman's Investment Corporation (LIC) effective December 9, 2002.
- The Non-Annexation Agreement provides environmental protections for both the golf course tracts and the non-golf course tracts.

Background (cont.)

- The restrictions for the golf course tracts are detailed in the Golf Course Environmental Management Plan.
- The provisions of the Golf Course Environmental Management Plan were negotiated and approved by SAWS.
- SAWS approved amendment to the Golf Course Environmental Management Plan on December 23, 2004.

Land

Current:

- LIC is the owner of approx. 2,856 acres of property in Bexar County. The property is subdivided into six contiguous tracts and one non-contiguous tract. None of the property is located in the city limits of San Antonio.

Amendment:

- No change

Golf Course Provisions

Current:

- PGA must operate at least (2) golf courses on the Land as of the fifth anniversary of the Effective Date (Dec. 2007).

Golf Course Provisions

Amendment:

- Change from the Professional Golfers' Association (PGA) of America to a separate entity the PGA Tour Golf Course Properties, Inc. which will operate at least (2) golf courses on the Land.
- Commencement of construction must occur by January 2008.
- Completion of at least (2) golf courses must occur by January 2010.
- PGA Tour, Inc. must license to Marriott the use of its trademarks, trade names, service marks and other intellectual property in the development, operation, promotion and marketing of the golf courses.

Hotel Requirements

Current

- A hotel must be operational as of the fifth anniversary of the Effective Date (Dec. 2007).

Amendment

- Commencement of hotel construction must occur by January 2007.
- Hotel construction must be complete by January 2010.

Term

Current:

- Provided for a 15 year period of non-annexation. Commence upon the Effective Date (Dec. 9, 2002) and ending on December 30, 2017.

Amendment:

- 25 year non-annexation term commences on the earlier of hotel completion or January 2009.
- Total term of non-annexation period from effective date will be 29 years. (Jan. 2005 – Jan. 2033)

Impervious Cover

Current:

- The area of all Impervious Cover on the Land cannot exceed 25%.

Amendment:

- The area of all Impervious Cover on the Land cannot exceed 15%.

Golf Course Environmental Management Plan

Current:

- Any golf course must be built and operated in compliance with this plan developed by SAWS.

Amendment:

- *SAWS will provide a briefing.* Amendments will include a closed-loop system over the golf course area.

Wage Standards

Current:

- Hotel employees, full-time employees of PGA in the positions described in the Wage Standards Agreement must be paid a minimum wage of \$10.00 per hour following the completion of the hotel.

Amendment:

- If hotel completion occurs after October 1, 2008, the minimum wage increases to \$10.25 per hour.
- If hotel completion occurs after October 1, 2009, the minimum wage increases to \$10.50 per hour.

Payment to SAWS

Current:

- LIC must pay \$100,000 a year to SAWS for environmental monitoring.

Amendment:

- No change (25 years)

Conservation Easement

Current:

- LIC must place a conservation easement on at least 700 acres of the land by December 2007.

Amendment:

- LIC must place a conservation easement on at least 700 acres of the land by the earlier of hotel completion or January 2009.

Creation of Public Improvement Districts

- LIC may petition Bexar County for the creation of a public improvement district (PID).
 - LIC must notify City at least 60 days prior to notification for the creation of a PID.
 - LIC agrees to provide to City all information regarding the PID prior to submitting a petition.
 - LIC guarantees that City will not be liable for any debt that may exist in the PID at the time of annexation.
 - City retains statutory right to refuse to approve PID.

Vested Rights

- As before, allows submittal of a new master development plan for the project, however if this non-annexation agreement is terminated prior to hotel completion then LIC reverts to 1995 plan without a loss of any vested rights.
- Language has been clarified that submission of new master plan does not constitute a project alteration.

Major Thoroughfare Plan Amendments

Current:

- Delete all roadways located on the Land reflected on the Major Thoroughfare Plan as being located north of the east-west arterial (“Cibolo Canyon Blvd.”) and changes the classification of the north-south roadway south of Cibolo Canyon Blvd. from an arterial roadway to connector roadway.

Major Thoroughfare Plan Amendments

Amendment:

- Delete all roadways located on the Land reflected on the Major Thoroughfare Plan as being located north of the east-west arterial (“Cibolo Canyon Blvd.”) and changes the alignment of Cibolo Canyon Blvd. to connect to Evans Rd. along its frontage with the Land and to eliminate the extension of Cibolo Canyon Blvd. to the east property line of the Land.

Milestones

- Term Sheet between LIC, Marriott, PGA Tour Golf Course Properties, Inc. and PGA Tour, Inc. to be reviewed by City's agent within 30 days.
- Hotel contract to be reviewed and verified by City's agent no later than March 1, 2006.
- Golf course management agreement with PGA Tour Golf Course Properties, Inc. to be reviewed and verified by City's agent no later than March 1, 2006.
- License Agreement for PGA Tour trademarks, trade names, service marks and other intellectual property rights to be reviewed and verified by City's agent no later than March 1, 2006.

New Termination Events

- Failure to execute the current amendments by January 30, 2005
- Failure to permit review of the signed hotel agreement, golf course management agreement and PGA Tour license agreement by March 1, 2006
- Failure to commence hotel construction by January 2007
- Failure to commence golf course construction by January 2008

New Termination Events (cont.)

- Termination of the hotel agreement unless a replacement agreement acceptable to City is provided within 180 days of termination
- Termination of PGA Tour license agreement

Assignment of GCEMP Obligations

- City has pre-approved a transfer by LIC to Marriott International, Inc. so long as LIC is not in default and Marriott assumes the obligations in writing; Marriott's assumption releases LIC except for \$100,000 payment.
- City has pre-approved transfers to Marriott's affiliates, PGA Tour Golf Course Properties, Inc. and its affiliates if SAWS approves their financial ability to perform the GCEMP obligations.

Private Sewage Facilities

Current:

- No private sewage facilities except (1) on the non-contiguous tract and (2) two locations on the north golf course

Amendment:

- No private sewage facilities except (1) on the non-contiguous tract and (2) on other locations approved by SAWS

Not Amended

Current:

- Application of UDC

Although the land lies in the county and is not within the corporate limits of the City, all provisions of the City's Unified Development Code apply as if the land were in fact located in the City of San Antonio, including UDC provisions applicable to the Edwards Recharge Zone District and the Tree Preservation Ordinance (1997).

Not Amended

■ Aquifer Protection Ordinances

All of the City's ordinances regarding drainage, flood plain regulation and aquifer protection and all future amendments apply to the land, notwithstanding that the terms of the ordinances may limit their enforcement to land within the City's boundaries.

Not Amended

- Water Pollution Abatement Plans

WPAPs must be submitted to and approved by SAWS in addition to the Texas Commission on Environmental Quality.

- Buffering

Sensitive geological features on the land must be buffered from development.

Not Amended

■ USTs and ASTs

All underground and above ground storage tanks are prohibited, except for containers of two gallons or less. Above ground storage tanks are permitted as provided by the amended Golf Course Management Plan.

■ Landscaping Restrictions

Only low-water landscapes in residential and commercial areas.

Not Amended

■ Pesticides and Fertilizers

Only SAWS approved pesticides, herbicides and fertilizers may be used in the residential and commercial areas.

■ Open Space

The combined acreage of golf courses and open space must not be less than a total of 800 acres (if three golf courses) or 500 acres (if two golf courses).

Land Use

<u>Acres</u>	<u>Land Use</u>
2,855.75	
<u>- 428.36</u>	15% Impervious Cover
2,427.39	
<u>- 700.00</u>	Conservation Easement
1,727.39	
<u>- 500.00</u>	(2) Golf Courses
1,227.39	Remaining Open Space

Conservation Easement Value

- LIC will convey 700 acre conservation easement
- Estimated value is approximately \$12.6 million

Cost/Benefit Analysis

Residential Development

- City revenues will be deferred for a period of 29 years. (2005 – 2033)
- The estimated value of deferred revenue for 29 years is \$50.2 million or NPV of \$17.6 million.
- These revenue estimates do not include the cost for City services for the 29 year period.

Cost/Benefit Analysis

Resort Development

- In 2034 City will begin collecting sales tax and H.O.T estimated at \$8.1 million.
- In 2036 City will receive sales tax, H.O.T. and property tax estimated to be \$12.7 million.
- The resort development will break-even with the residential development based on NVP in 6 ½ years.

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